

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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NICHOLAS DYKES,

Case No. 3:20-cv-00312-MMD-WGC

Plaintiff,

ORDER

NAPH CARE MEDICAL BILLING, et al.,

Defendants.

Pro se Plaintiff Nicholas Dykes brings this action under 42 U.S.C. § 1983.
before the Court is the Report and Recommendation (“R&R”) of United States
Magistrate Judge William G. Cobb (ECF No. 16), recommending the Court dismiss
the case without prejudice and deny Defendants’ motion to dismiss (ECF No. 10) as
untimely. Dykes had until May 13, 2021 to file an objection.¹ To date, no objection to the
R&R has been filed. For this reason, and as explained below, the Court adopts the
R&R, and will dismiss this case without prejudice and deny the motion to dismiss as
untimely.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); see also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings

¹The Court noted that mail sent to Dykes was returned as undeliverable. (ECF Nos. 14, 15, 17.) LR IA 3-1 requires a *pro se* party to immediately file a written change of address notification, or face dismissal. The Court entered a minute order specifically informing Dykes of this rule and requiring him to update his address and file any objection to the R&R by May 21, 2021. (ECF No. 18.) Plaintiff did not respond.

1 and recommendations is required if, but *only* if, one or both parties file objections to
2 the findings and recommendations.") (emphasis in original); Fed. R. Civ. P. 72,
3 Advisory Committee Notes (1983) (providing that the Court "need only satisfy itself
4 that there is no clear error on the face of the record in order to accept the
5 recommendation.").

6 Because there is no objection, the Court need not conduct de novo review, and
7 is satisfied Judge Cobb did not clearly err. Here, Judge Cobb recommends the Court
8 dismiss the action under Federal Rule of Civil Procedure 41(b) because Dykes has
9 failed to update his address or otherwise prosecute this action. (ECF No. 16 at 2.)
10 Dykes has not communicated with the Court in almost one year, nor has he responded
11 to Defendants' motion to dismiss (ECF No. 10), which was filed September 18, 2020.
12 The Court gave Dykes several opportunities to update his address and continue his
13 prosecution of this matter, but Dykes has failed to comply. The Court therefore agrees
14 with Judge Cobb that dismissal is the only feasible option. Having reviewed the R&R
15 and the record in this case, the Court will adopt the R&R in full.

16 It is therefore ordered that Judge Cobb's Report and Recommendation (ECF
17 No. 16) is accepted and adopted in full.

18 It is further ordered that this case is dismissed without prejudice.

19 It is further ordered that Defendants' motion to dismiss (ECF No. 10) is denied
20 as moot.

21 The Clerk of Court is directed to close this case.

22 DATED THIS 24th Day of May 2021.

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MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE